S.B. Civil Revision Petition NO.34/2001
M/s. Padam & Vipul Niwar Industries Ltd & Anr.
Vs
The Bank of Rajasthan Ltd. & Anr.

DATE OF ORDER : - 2.8.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr.RR Nagori, for the petitioner.
Mr.PK Bhansali, for the respondents

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Heard learned counsel for the parties.

Learned counsel for the petitioner submits that petitioner submitted objection petition under Section 47 CPC in the execution lodged by the respondent no.1 bank. Those objections were never decided by the trial court,but the trial court on 17.10.2000 passed the order that decree stands satisfied as the respondent no.1 bank has received cheque no.66523 dated 16th Oct., 2000 of Rs. 3,30,330/-, which was meant for the petitioner-judgment-debtor and has been given for payment against the decree, which was obtained by the respondent no.1 bank.

According to learned counsel for the petitioner, in fact, the objection petition was fixed for arguments by the executing court itself and date in that objection petition was 21st Nov., 2000, but the

execution petition itself has been disposed of by order dated 17th Oct., 2000. Therefore, according to learned counsel for the petitioner, the court below failed to decide the objection, which petitioner has raised in his application under Section 47 CPC.

Learned counsel for the respondent no.1 bank submits that by order dated 17th Oct., 2000 the executing court has only disposed of the execution petition as the decree holder received the cheque, referred above, and nothing survived in the execution petition. According to learned counsel for the respondent no.1 bank by order dated 17th Oct., 2000 the objection petition filed by the petitioner under Section 47 CPC has not been decided by the executing court.

In view of the virtually admitted position that the objection petition, which was filed by the petitioner-judgment-debtor against the decree has not been decided and in fact, the executing court by order dated 17th Oct., 2000 only recorded the admission of the decree holder bank about the receipt of cheque no.665231 dated 16th Oct., 2000 of Rs.3,30,330/-, therefore, the objection petition is required to be decided by the executing court.

In view of the above, the revision petition of the petitioner is allowed and the the executing court is directed to decide the objection

petition in accordance with law filed by the petitioner under Section 47 CPC, which appears to be have been registered as objection petition no.A8/1 in execution case no.6/2000.

(Prakash Tatia), J.

c.p.goyal/-